

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

EARL R. HOBBS, individually and on behalf of all others similarly situated,)
Plaintiff,) No. 07 C 6730
vs.) Judge Bucklo
TCF BANK,) Magistrate Judge Brown
Defendant.)

**DEFENDANT'S MOTION TO STAY
FURTHER PROCEEDINGS AND TO COMPEL ARBITRATION**

Defendant TCF National Bank (incorrectly named as TCF Bank) (hereinafter, "TCF"), by and through its undersigned counsel, respectfully moves to stay further proceedings in this case pending arbitration, pursuant to the Federal Arbitration Act, 9 U.S.C. § 3, and for an order compelling arbitration of Plaintiff's claim on an individual basis pursuant to 9 U.S.C. § 4. In support thereof, TCF states as follows:

1. Plaintiff Earl R. Hobbs ("Plaintiff") has filed a Class Action Complaint ("Complaint") alleging claims under the Electronic Funds Transfer Act, 15 U.S.C. § 1693, *et seq.*, ("EFTA") (Count I), and the Expedited Funds Availability Act, 12 U.S.C. § 4001, *et seq.*, ("EFAA") (Count II), based on TCF's purported failure to maintain fee-notice and funds-availability sticker notices on a TCF-owned automated teller machine (the "ATM") from which Plaintiff withdrew funds.

2. TCF believes that Plaintiff was a customer of TCF at the time of the ATM transaction. As a TCF customer, Plaintiff is obligated, pursuant to a binding and fully enforceable arbitration provision incorporated into the Terms and Conditions of Plaintiff's signed

Account Agreement, to submit his present dispute with TCF to arbitration, and he is required to do so solely on an individual basis pursuant to the class waiver contained therein.

3. In further support of this motion, TCF submits contemporaneously herewith Defendant's Memorandum of Law in Support of Motion to Stay Further Proceedings and to Compel Arbitration.

WHEREFORE, Defendant TCF National Bank, incorrectly named as TCF Bank, respectfully requests that the Court enter an order staying further proceedings and compelling arbitration of this dispute on a individual basis.

Dated: February 6, 2008

Respectfully submitted,

TCF NATIONAL BANK

By /s/ David R. Lidow
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